IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SEVENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 10698 of 2004

Between:

M. Gnanarathnam, S/o. Late Mollappa,
State Bank of Hyderabad, R/o. Mohan Nagar, Hyderabad.

..... PETITIONER

AND

1 The District Educational Officer, Medak District at Sangareddy.
2 Board of Secondary Education rep. by its Commissioner, Nampally, Hyd.
3 The Head Master and Correspondent, Methodist Rural High School, Zaheerabad, Medak Dist.
4 The Panchayat Secretary, Raikoda Village and Mandal, Medak District.
5 State Bank of Hyderabad, rep. by its Managing Director, Head Office at Hyd.

6. Director of School Education,Lakdikapool,Hyderabad.

(R.6 is impleaded as per Court Orders dated 27-01-2005 in WPMP No.25633 of 2004)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ Order or Direction more particularly one in the nature of Writ Of Mandamus, declaring the action of the Respondent Nos. 1,2,3 in not rectifying the clerical error in altering the date of birth of the petitioner from 16.12.1944 to 16.12.1949 in the provisional HSC Certificate bearing Regn.No.3348/68 as being discriminatory, arbitrary, violative of right of movement violative of right to life as enshrined in Art. 14,15,16,19 and 21 of the Constitution of India and consequently direct the Respondent Nos. 1 to 3 to dispose of the objection petition filed by the petitioner dated 06.04.1967 and 10.11.1994 expeditiously while directing the respondent No.5 to consider the request of the petitioner for continuation of service in the event of the petitioner's objection proved correct.

Counsel for the Petitioner:MR.S.TULASI DAS

Counsel for the Respondents 1 to 3 & 6: GP FOR SCHOOL EDUCATION

Counsel for the Respondent No. 5: MR.ADDEPALLI SURYANARAYANA

The Court made the following :

ORDER:

Heard Mr.S.Tulasidas, the learned counsel appearing for the petitioner, Mr.A. Suryanarayana, the learned counsel appearing for the respondent No.5 and the learned Government Pleader for School Education.

The petitioner, who is now working as a Branch Manager with the respondent No.5 Bank, files this writ petition interalia seeking for writ of mandamus to declare the action of the respondents 1 to 3 herein in not rectifying the clerical error in regard to his date of birth from 16-12-1944 to 16-12-1949 in the provisional HSC certificate bearing registration No.3348/68 as illegal and also to dispose of the application filed by him as long as back 6-4-1967 followed by another application on 10-11-1994.

The case of the petitioner is that subsequent to his graduation, he had entered in service in the year 1975 and initially appointed as Clerk-cum-Cashier, later on, he had been promoted and discharged his duties to the utmost satisfaction. However, basing on the erroneous entry in the school records in regard to his date of birth, the petitioner's date of birth was also taken note of by the respondent bank as 16-12-1944. He is said to be retired on 31-12-2004. It is the case of the petitioner that in fact, in the primary school records, the date of birth is shown as 16-12-1949. However, while entering the high school, the mistake has been occurred and the same was carried forward in the college as well as in the service records with the respondent No.5. Though the petitioner has filed an application for correction of the same in the year 1967, in respect of which, the petitioner has filed an acknowledgement obtained from the District Educational Officer, Medak District, the same was not disposed of nor any steps have been taken in this regard. Hence, the writ petition.

The learned counsel appearing on behalf of the respondents strenuously

repelling the aforesaid contention contended that all along the petitioner's date of birth was being shown as 16-12-1944 based upon the school entry produced by him. Apart from that fact, the petitioner himself while entering in service has shown his date of birth as 16-12-1944 and therefore, the question of any correction or any erroneous entry does not arise. Further having regard to the serious laches on the part of the petitioner and knocking the door of this court under article 226 of the Constitution of India at the fag end of service is only unjustified.

The learned counsel Sri S.Tulasidas submits that having regard to the fact that the petitioner is supported by an entry in his favour in the primary school records showing the date of birth as 1949 and not as 1944 and the subsequent entry in the high school and other places is only erroneous, therefore, there is a prima facie case and that he has filed an application in the year 1967 and the same is remained for consideration. Therefore, neither any laches arose nor the petitioner can be denied of his legitimate claim.

The learned counsel appearing for the respondents submits that except filing of an application by the petitioner in the year 1967, there is no whisper again or any objection raised at any later stage and therefore, apparently the sudden rouse of the petitioner just prior to retirement is nothing but only to squat on service. Therefore, it cannot be said that there is any erroneous entry.

Considering the submissions made and also a perusal of the material, the only question which arises for consideration is as to whether the case of the petitioner in regard to the date of birth as 16-12-1949 in place of 16-12-1944 is sustainable?

There is no dispute to the primary facts to the effect that having obtained graduation in B.Sc (MPC), the petitioner was entered into service with the respondent No.5 in the year 1975 . A copy of the application filed by the petitioner dated 9-10-1974 was cited across the bar by the learned counsel appearing for the respondent No.5 itself shows that he has shown his date of birth as 16-12-1944. Except stating that the primary school records are in his favour and the later records are against him, there is no proper persuasion on the part of the petitioner at the relevant point of time or at the earliest point of time. No doubt, the petitioner has filed an acknowledgement of the year 1967 of filing an application with the concerned District Educational Officer. However, there is nothing on record to show as to how and what manner the

petitioner has persuaded the said application. The petitioner could as well seek an appropriate legal remedy in the event of any inaction on the part of the said authorities to have his date of both corrected, instead the petitioner successfully completed his graduation on the same entry as 1944 and subsequently joined the service of respondent No.5 and now he has retired on 31-12-2004. Though it is also the case of the petitioner that in fact his elder brother is still in service, and he has retired from service before his elder brother itself cannot be a ground to accept the petitioner's version. There is a consistent laches on the part of the petitioner in not invoking any legal action or taking appropriate steps for correcting the erroneous entry, if any, in the school records all along . Now apart from completion of graduation, the petitioner has completed the service also with the respondent No.5. Therefore, there is nothing on record to show that there are any bonafides much less any justification for such delayed action on the part of the petitioner.

The learned counsel for the petitioner sought to place reliance on a decision of a Division Bench of this Court in the case of M.Vijaya Bhasker Reddy Vs. High Court of Andhra Pradesh,, wherein this Court considered various circumstances and also various aspects and laid down certain principles to the effect that on the face of it, an unimpeachable evidence available, therefore, the authorities cannot reject any such representation of the employee though at the fag end of the service.

However, in this case, there is neither any rejection nor any orders passed either by the educational authorities or by the employer i.e. the respondent No.5 herein. The petitioner has slept over the application alleged to have been filed in the year 1967, and no steps have been taken except making reference to a similar such application filed in the year 1994.

As rightly observed by the Apex Court in Burn Standard Co. Ltd., Vs. Dinabandhu Majumdar, that approach for correction of date of birth at the fag end of service with object of continuing in service cannot be entertained.

In the circumstances, I do not find any merits in the writ petition nor any justification .The writ petition is accordingly dismissed. No costs.

B.Prakash Rao,J

27-01-2005

Stp/Kvrm

Note:C.C. in one week.

TO:

1 The District Educational Officer, Medak District at Sangareddy.
2 The Commissioner,Board of Secondary Education, Nampally, Hyd.
3 The Head Master and Correspondent, Methodist Rural High School, Zaheerabad, Medak Dist.
4 The Panchayat Secretary, Raikoda Village and Mandal, Medak District.
5 The Managing Director, State Bank of Hyderabad, rep. by its Managing Director, Head Office at Hyd.

6.2CCs to the G.P. for Education, A.P.High Court Buildings,Hyderabad,OUT).

7.The Director of School Education,Lakdikapool,Hyderabad.

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